

**H.R. 2944**  
**AMENDMENT TO AMENDMENT IN THE NATURE OF**  
**A SUBSTITUTE**  
**OFFERED BY MR. SAWYER**

Page 27, strike line 8 and all that follows down  
through line 18 on page 29 and insert:

1       “(a) TRANSMISSION EXPANSION PLANNING PROC-  
2    ESS.—A regional transmission organization, a member of  
3    a regional transmission organization, or any other appli-  
4    cant (provided that the application is consistent with a  
5    planning process approved by a regional transmission or-  
6    ganization or comparable regional transmission planning  
7    entity), may develop and submit for review and approval  
8    by the Commission a transmission expansion planning  
9    process for the construction and expansion of the trans-  
10   mission facilities it operates or proposes to operate. The  
11   Commission shall approve the transmission expansion  
12   planning process if the planning process—

13               “(1) permits the input of all market partici-  
14       pants and other persons in the region and other  
15       interconnected regions;

16               “(2) is designed to determine efficient solutions  
17       to relieve constraints in the transmission system

1 without preference for either transmission or genera-  
2 tion solutions; and

3 “(3) provides for aggrieved market participants  
4 or other persons to contest the plans through an al-  
5 ternative dispute resolution process or through re-  
6 view by the Commission.

7 “(b) CONSTRUCTION CERTIFICATES.—The Commis-  
8 sion shall, after notice and opportunity for hearing, ap-  
9 prove a request of a regional transmission organization (or  
10 such member or other applicant) for a certificate of public  
11 convenience and necessity to construct any proposed  
12 transmission facilities developed through a transmission  
13 expansion plan resulting from a transmission expansion  
14 planning process approved by the Commission under sub-  
15 section (a), if it finds—

16 “(1)(A) a State in which the transmission fa-  
17 cilities are to be constructed or modified is without  
18 authority to approve the siting of the facilities, or

19 “(B) any State commission or body in a State  
20 in which the transmission facilities are to be con-  
21 structed or modified has authority to approve the  
22 siting of the facilities but has withheld approval,  
23 modified or conditioned its approval in a manner  
24 that materially alters the transmission expansion  
25 plan, or delayed the final determination of its ap-

1       proval for more than 1 year after the filing of an ap-  
2       plication seeking approval; and

3               “(2) the facilities to be authorized by the cer-  
4       tificate are or will be required by the present or fu-  
5       ture public convenience and necessity.

6 The Commission shall have the power to attach to the  
7 issuance of such certificate and to the exercise of the  
8 rights granted thereunder such reasonable terms and con-  
9 ditions related to the construction of such facility as the  
10 public convenience and necessity may require: *Provided*,  
11 That the Commission shall have no authority to compel  
12 the construction or enlargement of transmission facilities  
13 directly or indirectly, including as a condition of the re-  
14 ceipt of any other approval from the Commission. The  
15 Commission shall issue its final decision in the certificate  
16 proceeding within 180 days after the filing of the request  
17 for a certificate.

18       “(c) APPLICATIONS FOR CERTIFICATES.—Applica-  
19 tions for certificates under subsection (b) shall be made  
20 in writing to the Commission, be verified under oath, and  
21 shall be in such form, contain such information, and notice  
22 thereof shall be served upon such interested parties and  
23 in such manner as the Commission shall, by regulation,  
24 require.

1       “(d) COMMENTS.—In any proceeding before the  
2 Commission initiated under subsection (b), the Commis-  
3 sion shall afford each State in which transmission facilities  
4 covered by the certificate are or will be located and other  
5 interested parties a reasonable opportunity to present  
6 their views and recommendations with respect to the need  
7 for and impact of any facilities covered by the certificate.

8       “(e) RIGHT OF EMINENT DOMAIN.—When any hold-  
9 er of a certificate of public convenience and necessary for  
10 electric transmission facilities issued by the Commission  
11 pursuant to subsection (b) cannot acquire by contract, or  
12 is unable to agree with the owner of the property to the  
13 compensation to be paid for the necessity rights-of-way to  
14 construct, operate, and maintain such transmission facil-  
15 ity, it may acquire the same by the exercise of the right  
16 of eminent domain in the district court of the United  
17 States for the district in which such property may be lo-  
18 cated, or in the State courts. The practice and procedure  
19 in any action or proceeding for that purpose in the district  
20 court of the United States shall conform as nearly as may  
21 be with the practice and procedure in similar action or  
22 proceeding in the courts of the State where the property  
23 is situated.

24       “(f) COST RECOVERY.—All reasonable costs for the  
25 construction, operation, and maintenance of transmission

1 facilities developed through a transmission expansion  
2 planning process approved by the Commission under sub-  
3 section (a) shall be recoverable in the transmission rates  
4 charged by the regional transmission organization or other  
5 such applicant.

6 “(g) STATE LAW.—Nothing in this section shall pre-  
7 clude any person from constructing any transmission fa-  
8 cilities pursuant to State law.”.